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*Attorneys for Defendant Maricopa County*

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF ARIZONA**

TPG Communications, LLC, d/b/a The  
Gateway Pundit, a Missouri limited  
liability company; and Jordan  
Conradson, an individual,

Plaintiffs,

v.

Jack Sellers, Thomas Galvin, Bill Gates,  
Clint Hickman, and Steve Gallardo, in  
their respective official capacities as  
members of the Maricopa County Board  
of Supervisors; Stephen Richer, in his  
official capacity as the Maricopa County  
Recorder; Rey Valenzuela and Scott

NO. 22-CV-01925-JJT

**DEFENDANTS' ANSWER TO  
PLAINTIFFS' COMPLAINT**

Jarrett, in their official capacities as  
Maricopa County Election Directors;  
and Megan Gilbertson and Marcus  
Milam, in their official capacities as  
Maricopa County Communications  
Officers,

Defendants.

Defendants Jack Sellers, Thomas Galvin, Bill Gates, Clint Hickman, and Steve  
Gallardo (in their official capacities as members of the Maricopa County Board of  
Supervisors), Stephen Richer (Maricopa County Recorder), Rey Valenzuela and Scott  
Jarrett (Maricopa County Election Directors) and Megan Gilbertson and Marcus Milam  
(Maricopa County Communications Officers) (together, where appropriate, the “County”),  
answer Plaintiffs Complaint by denying every allegation therein except as otherwise  
admitted or qualified as follows:

### **INTRODUCTION**

1. Paragraph 1 is denied.
2. Paragraph 2 is denied.
3. Paragraph 3 contains no allegations against Defendants and so no response is  
required. To the extent a response is required, Defendants do not have sufficient information  
to admit or deny and so deny for lack of information.
4. Paragraph 4 is denied.
5. Paragraph 5 is denied.
6. Paragraph 6 is denied.
7. The first sentence of Paragraph 7 is denied. Defendants admit that Conradson writes

1 articles that are published on the TGP website. The remainder of Paragraph 7 is denied for  
2 lack of sufficient information.

3 8. Defendants admit that the Maricopa County Elections Department requires a press  
4 pass to attend press conferences. Defendants deny that a press pass is required to investigate  
5 or report on the election process in Maricopa County, Arizona.

7 9. Defendants admit that Conradson requested a press pass. Defendants deny that TGP  
8 requested a press pass and deny the remainder of Paragraph 9.

10 10. Defendants admit that Conradson was denied a press pass for the reasons stated in  
11 the denial email sent to him on September 30, 2022, including that he was not a bona fide  
12 correspondent of repute in his profession because he does not avoid real or perceived  
13 conflicts of interest and is not free of associations that would compromise journalistic  
14 integrity or damage credibility. The remainder of Paragraph 10 is denied.

16 11. Paragraph 11 is denied for lack of sufficient information.

17 12. Paragraph 12 is denied.

18 **PARTIES**

19 13. Paragraph 13 is denied for lack of sufficient information.

20 14. Defendants admit that Jordan Conradson writes articles that are published on the  
21 TGP website. Defendants deny the remainder of Paragraph 14 for lack of information.

22 15. Defendants admit the first sentence of Paragraph 15 and admit that the Board of  
23 Supervisors is responsible for overseeing certain portions of elections conducted in  
24 Maricopa County. The remainder of Paragraph 15 is denied for lack of sufficient  
25 information.  
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1 16. Defendants admit the first sentence of Paragraph 16 and admit that the County  
2 Recorder is responsible for overseeing certain portions of elections conducted in Maricopa  
3 County. The remainder of Paragraph 16 is denied for lack of sufficient information.

4  
5 17. Defendants admit the first sentence of Paragraph 17 and admit that they are  
6 responsible for overseeing certain portions of communications related to Maricopa County.  
7 The remainder of Paragraph 17 is denied for lack of sufficient information.

8  
9 18. Defendants admit the first sentence of Paragraph 18 and admit that they are  
10 responsible for certain aspects of communication between Maricopa County and the press  
11 elections conducted in Maricopa County. Defendants admit that Megan Gilbertson is one  
12 of the persons who reviews press pass applications. Defendants deny that Marcus Milam is  
13 one of the persons who reviews press pass applications. The remainder of Paragraph 18 is  
14 denied for lack of sufficient information.  
15

16 **JURISDICTION AND VENUE**

17 19. Defendants admit that this court has jurisdiction to hear this case.

18 20. Defendants admit that venue is proper.  
19

20 **GENERAL ALLEGATIONS**

21 21. Paragraph 21 is denied for lack of sufficient information.

22 22. Defendants admit that ballots in Maricopa County were still being counted at the  
23 time Plaintiffs filed their Complaint. The remainder of Paragraph 22 is denied for lack of  
24 sufficient information.  
25

26 23. Defendants deny Paragraph 23.

27 24. Defendants deny Paragraph 24 for lack of sufficient information.  
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1 25. Defendants deny Paragraph 25 for lack of sufficient information.

2 26. Defendants admit that TGP publishes online commentary. The remainder of  
3 Paragraph 26 is denied for lack of sufficient information.  
4

5 27. Defendants admit that Maricopa County established a process for members of the  
6 press to enter its facilities and/or cover events related to the 2022 General Election.  
7 Defendants admit that the quote listed in Paragraph 27 is one of the sentences that describes  
8 the press pass policy.  
9

10 28. Defendants admit Paragraph 28.

11 29. Defendants admit Paragraph 29.

12 30. Defendants admit that Conradson applied for a press pass on September 27, 2022.  
13 Defendants deny that TGP applied for a press pass. The remainder of Paragraph 30 is denied  
14 for lack of information.  
15

16 31. Defendants admit that Conradson was sent a denial of the press pass application and  
17 that the quoted language is part of the denial email that was sent.  
18

19 32. Defendants admit that Conradson continued to write articles about the election in  
20 Maricopa County after the press pass application was denied. The remainder of Paragraph  
21 32 is denied for lack of sufficient information.

22 33. Defendants admit that Conradson entered the MCTEC building on November 10,  
23 2022, and that because he did not have a press pass, he was asked to leave the building and  
24 move to a location outside the building where members of the public were allowed to be. The  
25 remainder of Paragraph 33 is denied.  
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27 34. Defendants admit that members of the press who were granted a press pass were  
28

1 permitted to attend press conferences and to remain within specified areas of MCTEC. The  
2 remainder of Paragraph 34 is denied.

3 35. Defendants admit that Conradson was unable to attend press conferences after being  
4 denied a press pass. The remainder of Paragraph 35 is denied.

5 36. Defendants admit that Conradson transmitted an email purporting to appeal the  
6 denial decision. The remainder of Paragraph 36 is denied for lack of sufficient information.

7 37. Defendants admit that on November 10, 2022, one of the attorneys for TGP and  
8 Conradson, John C. Burns, transmitted a letter regarding the denied press pass. The  
9 remainder of Paragraph 37 is denied for lack of sufficient information.

10 38. Paragraph 38 is denied.

11 39. Defendants admit that Conradson had not been issued a press pass prior to the date  
12 Plaintiffs' complaint was filed. The remainder of Paragraph 39 is denied.<sup>1</sup>

13 **CLAIMS FOR RELIEF**  
14 **FIRST CLAIM FOR RELIEF**

15 **Violation of the U.S. Const., Amendment I under 42 U.S.C. § 1983**

16 40. Defendants incorporate their responses to the previous allegations as though set  
17 forth herein.

18 41. Paragraph 41 is denied.

19 42. Paragraph 42 is denied.

20 43. Defendants admit that Plaintiffs have a First Amendment right to publish opinions  
21 about the Maricopa County election process. The remainder of Paragraph 43 is denied.

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27 <sup>1</sup> Defendants assume Paragraph 39 was intended to say "Plaintiffs" instead of "Defendants" where  
28 the allegation says that "Defendants have not issued press credentials to '*Defendants*,'" and where  
the allegation says "'*Defendants*' are unable to participate in press conferences. . . ."

1 44. Defendants admit that Conradson was denied a press pass and that Conradson could  
2 not access the MCTEC as a result. The remainder of Paragraph 44 is denied.

3 45. Paragraph 45 is admitted as to Plaintiff Conradson. Defendants deny that TGP  
4 applied for a press pass.  
5

6 46. Paragraph 45 is denied.

7 47. Paragraph 46 is denied.

8 48. Paragraph 48 is denied.

9 49. Paragraph 49 is denied.  
10

11 50. Paragraph 50 is denied.

12 51. Paragraph 51 is denied.

13 52. Paragraph 52 is denied.

14 53. Paragraph 53 is denied.  
15

16 54. Paragraph 54 is denied.

17 55. Paragraph 55 is denied.  
18

### 19 **DEFENSES AND AFFIRMATIVE DEFENSES**

20 In further answer to the Complaint, Defendants assert the following defenses and  
21 affirmative defenses.

22 1. Defendants alleges all affirmative defenses listed in Federal Rule of Civil  
23 Procedure 8(c), as well as any other affirmative defenses that may come to light during  
24 discovery, including but not limited to: accord and satisfaction, arbitration and award,  
25 assumption of risk, contributory negligence, duress, estoppel, failure of consideration,  
26 fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata,  
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1 statute of frauds, statute of limitations, waiver, and any other matter which constitutes an  
2 avoidance or affirmative defense.

3         2. Defendants allege all defenses listed in Federal Rule of Civil Procedure 12(b), as  
4 well as any other defenses that may come to light during discovery, including but not limited  
5 to: lack of subject matter jurisdiction, lack of personal jurisdiction, improper venue,  
6 insufficient process, insufficient service of process, failure to state a claim upon which relief  
7 can be granted, and failure to join a party under Rule 19.  
8

9         3. Defendants allege Plaintiffs failed to properly plead special matters pursuant to  
10 Federal Rule of Civil Procedure 9.  
11

12         4. Plaintiffs have failed to mitigate their damages.

13         5. Plaintiffs have failed to sufficiently allege Constitutional violations against  
14 Defendants. Neither Defendants' actions nor inactions violated the federal constitutional  
15 rights of Plaintiffs.  
16

17         6. Plaintiffs cannot demonstrate that any deprivation of constitutional rights  
18 occurred because of any officially adopted policy, practice or custom and, thus, no officially  
19 adopted policy, practice or custom can give rise to liability on the part of Defendant. Further,  
20 Plaintiffs cannot establish that any policy, practice or custom proximately caused their  
21 alleged damages.  
22

23         7. Defendants are entitled to absolute and/or qualified immunity.

24         8. Defendants have not knowingly or intentionally waived any applicable defenses  
25 or affirmative defense. If it appears that any defense or affirmative defense is or may be  
26 applicable after Defendant has had the opportunity to conduct reasonable discovery in this  
27  
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1 matter, Defendant will assert such defenses or affirmative defenses in accordance with the  
2 Federal Rules of Civil Procedure.

3 **DEMAND FOR JURY TRIAL**

4 Pursuant to Fed.R.Civ.P. 38 and 57, Defendants demand a trial by jury on all issues  
5 triable by a jury.

6 **WHEREFORE**, having fully answered the Complaint, Defendants hereby request  
7 the following relief:  
8

- 9
- 10 1. That this action be dismissed with prejudice as to Defendants, with Plaintiffs  
11 taking nothing and with Judgment entered in favor of Defendants;
  - 12 2. That Plaintiffs be ordered to pay Defendants' costs and attorney fees; and
  - 13 3. For such other and further relief as this Court deems just and proper.
- 14

15 **RESPECTFULLY SUBMITTED** this 30<sup>th</sup> day of December 2022.

16 RACHEL H. MITCHELL  
17 MARICOPA COUNTY ATTORNEY

18 BY: /s/ Charles E. Trullinger  
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23 PAMELA A. HOSTALLERO  
24 Attorneys for Maricopa County Defendants  
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 30, 2022, I caused the foregoing document to be electronically transmitted to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Honorable John J. Tuchi  
Judge of the United States District Court  
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/s/ D. Shinabarger

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